

TOWN OF SOUTH BETHANY
BOARD OF ADJUSTMENT PUBLIC HEARING MINUTES
Friday, November 18, 2022, 1:00 p.m.

This meeting/hearing was conducted electronically.

PRESENT: Chairman Steve Bunoski; Charlene Sturbitts; Al Rae; Martha Fields; Jimmy Oliver and Barrett Edwards

TOWN STAFF: Joe Hinks, Code Enforcement Officer; and Brittany Sneeringer, Administrative Assistant

APPLICANT: **Brian and Michelle Ewers**, 303 W. 4th Street, Lot 46

ATTENDANCE: Brian and Michelle Ewers, Mario Roca (contractor), Lynn Masiello, 309 W. 4th; Mary Pat Cardone, 305 W. 4th.

Chairman Bunoski called the Meeting to order at 1:00 p.m. All parties were sworn in who requested testimony during the hearing.

PURSUANT TO 22 DEL.C. SECTION 327 (a) AND ARTICLE XI, SECTION 145-38(A)(2), TWENTY-FIVE (25) FT rear yard setback requirements of the Code of South Bethany. The Board of Adjustment will hold a Public Hearing to consider the homeowner's request for a variance of encroachment two feet, seven inches (2'7") into the rear yard setback.

Administrative Assistant Brittany Sneeringer stated the public hearing notice for this meeting was posted on the property (303 W. 4th Street) on October 14, 2022; the notice was published in the *Coastal Point* newspaper on October 14, 2022; it was posted at Town Hall and on four (4) other locations within Town on October 14, 2022; and was sent via mail to the property owner and owners of property within a radius of two-hundred (200) feet of the property on October 13, 2022.

Town Code Enforcement Constable Joseph Hinks stated the applicants were looking to make a substantial improvement to their dwelling. In this particular case, the project called for eliminating some of the encroachments. However, there would still be an existing deck in the rear that would continue to encroach 2 feet 7 inches. This is due to that upper rear deck going over the building restriction line.

Mr. Mario Roca, contractor for the applicants, stated he were to bring the existing deck into compliance, it would be approximately 3 feet wide. Making it useless. Modifying the landing on the left still would not allow access to said deck. Mr. Roca made point that with the deck being there 40 years, they felt it was esthetically pleasing and the encroachment is not offensive to surrounding neighbors. Unfortunately, when purchasing the home, over a year and a half ago, the Ewers were unaware the deck was out of compliance. The owners have already removed the deck and staircase that encroached into the left yard setback. This now, only leaves the rear yard deck as the only point of ingress and egress on the second floor. Therefore, as stated by Mr. Roca, cutting that deck back to be compliant or losing it all together in conjunction with cost, would be the hardship the Ewers would face if the variance were not granted.

Charlene Sturbitts, board member, questioned whether the requested variance has anything to do with the current renovation. To which Mr. Roca clarified, no, all other aspects of the renovation including additions comply.

The Board finds the applicant has met the standards necessary to demonstrate that an exceptional practical difficulty exists to warrant granting the variance. Given the fact that the conditions were not the

fault of the applicant. Not granting the variance would result in the homeowner never being able to make substantial improvements to their dwelling.

Chairman Bunoski motioned to grant the variance as requested for both the deck and small staircase beneath. BOA Member James Oliver seconded the motion. Motion carried 5-0.

The hearing was adjourned at 1:35 p.m.

Exhibit 1 Variance application packet including email correspondence

